



- 2) Defendant is ordered to produce the spreadsheet listing pickup and drop-off locations for vehicles within 35 miles of the collision site, excluding any notes by defense counsel created for defense of this case.<sup>2</sup>
- 3) Plaintiff's objection as to maps showing pings of Swift vehicles in relation to the collision site is overruled, as Plaintiff has failed to show undue hardship in the process of recreating such maps himself, provided access to location data.<sup>3</sup> *See Pittman v. Frazer*, 129 F.3d 983, 988 (8th Cir. 1997) (ordinary work product not discoverable without showing "substantial need and an inability to secure the substantial equivalent of the items through alternate means without undue hardship") (citations omitted).
- 4) Plaintiff's objection to Defendant's failure to provide memo of analysis as to vehicle position history created by defense counsel for this case is overruled, as this constitutes opinion work product, discoverable only in extraordinary circumstances.<sup>4</sup> *See Pittman* at 988 (opinion work product discoverable only in extraordinary circumstances)

It is further ordered that, if Plaintiff denies its vehicles were in the vicinity of the collision alleged in complaint, Plaintiff shall directly do so by amending its interrogatory responses rather than merely referring to documents provided.

**IT IS SO ORDERED.**

Dated: July 18, 2023

/s/ Douglas Harpool

**DOUGLAS HARPOOL**  
**United States District Judge**

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<sup>2</sup> Identified as item 6b in Plaintiff's description of the discovery dispute. (Exhibit A).

<sup>3</sup> Identified as item 6c in Plaintiff's description of the discovery dispute. (Exhibit A).

<sup>4</sup> Identified as item 6d in Plaintiff's description of the discovery dispute. (Exhibit A).